

on or about December 15, 1932, from the State of Maryland into the State of Michigan, of a quantity of oysters that were adulterated and misbranded. The article was labeled in part: (Can) "Cap'n John's Fresh Raw Oysters * * * All Pure Food Laws Complied With * * * The Great Atlantic and Pacific Tea Co., New York, N. Y., Distributors."

It was alleged in the information that the article was adulterated in that a substance, excessive water, had been mixed and packed therewith so as to lower and reduce and injuriously affect its quality and had been substituted in part for oysters, which the article purported to be. Adulteration was alleged for the further reason that a valuable constituent of the article, oyster solids, had been in part abstracted.

Misbranding was alleged for the reason that the statement, "All Pure Food Laws Complied with", borne on the can, was false and misleading, and for the further reason that it was labeled so as to deceive and mislead the purchaser, since it did not comply with the Food and Drugs Act of June 30, 1906.

On June 1, 1934, a plea of nolo contendere was entered on behalf of the defendant company, and the court imposed a fine of \$50.

M. L. WILSON, *Acting Secretary of Agriculture.*

22399. Adulteration and misbranding of tomato puree. U. S. v. 50 Cases of Puree. Default decree entered. Product delivered to charitable organizations. (F. & D. no. 31873. Sample nos. 45173-A, 56402-A.)

This case involved a shipment of tomato puree which was deficient in tomato solids.

On January 23, 1934, the United States attorney for the Southern District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 50 cases of tomato puree at Mobile, Ala., alleging that the article had been shipped in interstate commerce on or about December 20, 1933, by the Delta Canneries, Inc., from Stockton, Calif., and charging adulteration and misbranding in violation of the Food and Drugs Act. The article was labeled in part: "Winter Garden Puree * * * Packed by Delta Canneries Stockton, Calif."

It was alleged in the libel that the article was adulterated in that an insufficiently concentrated tomato product had been substituted for tomato puree, which the article purported to be.

Misbranding was alleged for the reason that the statement on the label, "Puree", was false and misleading and deceived and misled the purchaser, since the said statement represented that the article was tomato puree; whereas an insufficiently concentrated tomato product made from tomatoes and tomato trimmings had been substituted for tomato puree. Misbranding was alleged for the further reason that the article was offered for sale under the distinctive name of another article.

On February 21, 1934, no claimant having appeared, a decree was entered sustaining the allegations of the libel. On April 12, 1934, the court having found that the product was wholesome and fit for human consumption, final decree was entered, ordering that it be delivered to charitable organizations.

M. L. WILSON, *Acting Secretary of Agriculture.*

22400. Misbranding of salad oil. U. S. v. 28 Cans, et al., of Salad Oil. Product released under bond for repacking. (F. & D. nos. 31923, 31924, 31975, 32012. Sample nos. 52139-A, 52140-A, 52141-A, 52150-A, 67407-A.)

These cases involved a product which consisted principally of domestic cottonseed oil which was labeled to convey the impression that it was olive oil of foreign origin.

On January 30, February 13, and February 20, 1934, the United States attorney for the District of New Jersey, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 196 gallon cans and 42 half-gallon cans of salad oil, in part at Lyndhurst, N. J., and in part at Newark, N. J., alleging that the article had been shipped in interstate commerce, in various shipments between the dates of May 4, 1933, and January 26, 1934, by the Moosalina Products Corporation, from Brooklyn, N. Y., and charging misbranding in violation of the Food and Drugs Act.

It was alleged in the libel that the article was misbranded in that the statements on the main panel of the can, "Oil Lucca Toscana Brand" and "Marca Lucca Toscana", and on the top of the can, "The Contents of Olive Oil in this can is imported from Italy", together with the design of olive branches and

leaves also appearing on the can, were misleading and tended to deceive and mislead the purchaser, since they created the impression that the article was Italian olive oil; whereas it consisted chiefly of cottonseed oil packed in the United States. Misbranding was alleged for the further reason that the article purported to be a foreign product when not so. Misbranding was alleged with respect to a portion of the article for the further reason that it was offered for sale under the distinctive name of another article.

The Moosalina Products Corporation appeared as claimant for the property, admitted the allegations of the libels, and consented to the entry of a decree condemning and forfeiting the product. On May 1, 1934, the cases having been consolidated into one cause of action, judgment was entered ordering that the product be released to the claimant upon payment of costs and the execution of a bond in the sum of \$200, conditioned that it be repacked so that it comply with the Federal Food and Drugs Act and all other laws.

M. L. WILSON, *Acting Secretary of Agriculture.*

22401. Adulteration of dried pears. U. S. v. 25 Boxes of Dried Pears. Default decree of condemnation, forfeiture, and destruction. (F. & D. no. 31925. Sample no. 45454-A.)

This case involved a shipment of dried pears which were found to contain dirt, insect excreta, dead larvae, and work holes.

On January 31, 1934, the United States attorney for the Western District of Washington, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 25 boxes of dried pears at Seattle, Wash., alleging that the article had been shipped in interstate commerce on or about January 18, 1934, by Schwabacher Bros., of Outer Harbor, Oakland, Calif., from San Francisco, Calif. (manufacturer, Rosenberg Bros. & Co., San Francisco, Calif.), and charging adulteration in violation of the Food and Drugs Act. The article was labeled in part: "Madrona Brand Evaporated Choice Pears."

It was alleged in the libel that the article was adulterated in that it consisted in whole or in part of a filthy vegetable substance.

On April 9, 1934, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered, and it was ordered by the court that the product be destroyed by the United States marshal.

M. L. WILSON, *Acting Secretary of Agriculture.*

22402. Adulteration and misbranding of apple jelly. U. S. v. 400 Cases of Apple Jelly. Consent decree of condemnation and forfeiture. Product released under bond to be relabeled. (F. & D. no. 31954. Sample no. 46120-A.)

Analysis of the apple jelly involved in this case showed that it contained sodium benzoate and inactive malic acid, neither of which is a normal ingredient of apple jelly. Sample jars taken from the shipment were found to contain less than 10 ounces, the labeled weight.

On February 26, 1934, the United States attorney for the Northern District of Illinois, acting upon a report by the Secretary of Agriculture, filed an amended libel, in lieu of the original libel theretofore filed, against 400 cases of apple jelly at Chicago, Ill. It was alleged in the amended libel that the said 400 cases of apple jelly had been shipped in interstate commerce, on or about January 9, 1934, by the National Fruit Co. (National Fruit Product Co., Inc.), of Washington, D. C., from Winchester, Va., and that it was adulterated and misbranded in violation of the Food and Drugs Act as amended. The article was labeled in part: (Jar) "Club House Brand Contents Ten Oz. Pure Apple Jelly Distributed by Franklin MacVeigh & Co., Chicago."

The amended libel charged that the article was adulterated in that a substance containing added sodium benzoate and inactive malic acid had been substituted for pure apple jelly.

Misbranding was alleged for the reason that the statements, "Contents Ten Oz." and "Pure Apple Jelly", borne on the label, were false and misleading and deceived and misled the purchaser. Misbranding was alleged for the further reason that the article was food in package form and the quantity of the contents was not plainly and conspicuously marked on the outside of the package, since the statement made was incorrect.

On April 30, 1934, the National Fruit Product Co., Inc., claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation and forfeiture was entered, and it was